

In The Matter Of:

*Germaine Bomar v.
City of Pontiac, et al*

*Bryan Wood
March 25, 2009*

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[1] A: No, I haven't.
[2] Q: They never told you that their depositions were taken?
[3] A: No.
[4] Q: Do you have an independent recollection of the events
[5] that happened that day?
[6] A: Yes.
[7] Q: Did reviewing the incident report help refresh your
[8] recollection at all or is it still pretty fresh in your
[9] mind?
[10] A: It's still pretty fresh in my mind.
[11] Q: It's my understanding that originally you were working
[12] with a narcotics crew to execute a search warrant at an
[13] address in Pontiac known as 56 Neome, N-e-o-m-e; is that
[14] correct?
[15] A: Yes, as a member of the special response team.
[16] Q: What was your specific role as a member of the special
[17] response team?
[18] A: I was a team member on a team that — special response
[19] team is our SWAT team — we executed a search warrant at
[20] 56 Neome.
[21] Q: Were you one of the members that went — did you go into
[22] the house at Neome?
[23] A: Yes.
[24] Q: At some point during the investigation and the search of
[25] the Neome address, it's come to my attention through the

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[1] testimony of Officer Wheatcroft that you and Officer
[2] Main and Wheatcroft left that location; is that correct?
[3] A: Yes.
[4] Q: Can you tell me what caused you to leave that location?
[5] A: We were informed — special response team had taken up
[6] perimeter positions around the house to secure the house
[7] after the search warrant was executed.
[8] We were informed by Sergeant Cosby
[9] that an individual was going to be delivering an AK-47
[10] assault rifle and a .38 caliber handgun.
[11] We took up perimeter positions and
[12] a blue Caprice pulled up in front of the residence.
[13] That Caprice was taken down and secured. As we were
[14] doing that, another car pulled in behind it on Neome
[15] then stopped and quickly backed up to Elizabeth Lake
[16] Road and sped off.
[17] Q: The blue Caprice that pulled up first, did you have
[18] anything to do with the searching of that vehicle?
[19] A: No.
[20] Q: Did you learn at any point that any weapons were taken
[21] from that vehicle?
[22] A: No.
[23] MR. GOLDSTEIN: No, you didn't learn or,
[24] no, no weapons were taken?
[25] THE WITNESS: I'm not aware of any weapons

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[1] being taken from that vehicle.
[2] BY MR. HUGHES:
[3] Q: The second vehicle that you indicated pulled up
[4] onto Neome, can you give me a description of that
[5] vehicle?
[6] A: It was a tan or a pewter color. I think it was a Taurus
[7] four-door.
[8] Q: Where were you relative to your vantage point to see the
[9] Taurus pull up?
[10] A: I was south of the — south of the Caprice looking north
[11] towards Elizabeth Lake Road as it turned onto Neome and
[12] then backed up back to Elizabeth Lake Road.
[13] Q: What time of day was this; was it light or dark?
[14] A: It was dusk.
[15] Q: Were you able to identify or describe who was in that
[16] vehicle?
[17] A: We could just see there was a lone black male.
[18] Q: After the car backed up and it left the scene, what
[19] happened next?
[20] A: Myself, Officer Main and Officer Wheatcroft got into a
[21] van, we drove south on Neome and through the
[22] neighborhood to try to cut the car off going down
[23] Genesee Street.
[24] Q: So you were in a van?
[25] A: Yes.

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[1] Q: Was the van marked in any way?
[2] A: No.
[3] Q: When the van took pursuit of what appeared to be a
[4] Taurus were there any lights or sirens or anything like
[5] that that were employed on the van?
[6] A: No.
[7] Q: At any point did you lose sight of the — what you
[8] believe was a Taurus?
[9] A: Yes.
[10] Q: For how long of a period do you think you lost sight?
[11] A: As soon as it started west on Elizabeth Lake.
[12] Q: And then after it went west on Elizabeth Lake, the van
[13] gave pursuit — who was driving the van; let me ask you
[14] that.
[15] A: Officer Main.
[16] Q: Then tell me again what direction you went to try to
[17] locate the Taurus?
[18] A: We went south on Neome to cut it off at Genesee assuming
[19] that it was going to turn south onto Genesee from
[20] Elizabeth Lake.
[21] Q: What happened as you were trying to locate the vehicle?
[22] A: We didn't see any vehicles on Genesee so we drove north
[23] of Genesee, we pulled up. As we continued north we saw a
[24] tan Taurus type car sitting in the back driveway of
[25] 154 Genesee with a black male behind it that ducked down

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[1] Q: Did you ever see him enter into the house?
[2] A: Just that landing area as they were struggling back and
[3] forth.
[4] Q: So he was inside the house?
[5] A: Yeah, that's — you know, the door open, he was there in
[6] the landing.
[7] Q: Well, when you say the landing there is the back door
[8] that opens up into the rear of the house and then there
[9] is like — is there a foyer or an area that leads up the
[10] steps into the house?
[11] A: Yeah, there's two or three steps that lead up into this
[12] kitchen area.
[13] Q: And he was inside the house at that time that you first
[14] saw him?
[15] A: He was reaching in. There was — the 13-year-old was on
[16] the little set of stairs and his mother had put herself
[17] in between him and Officer Main and Officer Main was
[18] still trying to get the 13-year-old so he was
[19] obviously — his arms and feet were there on the front
[20] landing.
[21] Q: When did you learn that the individual was 13 years old?
[22] A: After they were secured.
[23] Q: Before when you were in the van and you noticed the
[24] individual back by the car who appeared to be ducking
[25] down, could you make any estimation of his age at that

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[1] time?
[2] A: No.
[3] Q: Do you have any estimation of the age of the driver of
[4] the vehicle that originally backed up out of the Neome
[5] Street address?
[6] A: Probably looked in his 20's.
[7] Q: Officer Main struggling with the mother and the
[8] 13-year-old is behind the mother; is that correct?
[9] A: Yes.
[10] Q: Where are you when you're observing this; how far away
[11] are you from the back door?
[12] A: I'm coming up right behind them.
[13] Q: Did you eventually have contact with the 13-year-old?
[14] A: Yes.
[15] Q: How did that happen?
[16] A: The mother came outside. She was handcuffed and the
[17] 13-year-old came out, I think he was handcuffed also.
[18] And it became very apparent at that point that this was
[19] not the right person.
[20] Q: So how did the mother get outside?
[21] A: She was pulled out.
[22] Q: She was pulled out by?
[23] A: Officer Main.
[24] Q: Do you recall if Officer Main handcuffed her at that
[25] time as soon as she was taken out of the house?

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[1] A: Yes.
[2] Q: Was she put down on the ground?
[3] A: Yes.
[4] Q: Face down on the ground?
[5] A: Yes.
[6] Q: Did you notice if she was struggling with Officer Main
[7] during the period of time that she was being handcuffed?
[8] A: She's struggling with him at the door and when she was
[9] on the ground she was still yelling and screaming but he
[10] handcuffed her without any problems.
[11] Q: Is it your testimony, then, that the 13-year-old came
[12] out of the house on his own volition?
[13] A: Yes.
[14] Q: Was he saying or doing anything?
[15] A: No. He was upset and just said that he was trying to
[16] get his dog.
[17] Q: He said something that he was trying to get his dog?
[18] A: Yeah.
[19] Q: Did you see a dog in the area?
[20] A: I don't remember a dog.
[21] Q: Then eventually did you or Officer Wheatcroft take
[22] control of the 13-year-old?
[23] A: Yes.
[24] Q: Who did that?
[25] A: I think I did.

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[1] Just talking to him, you know,
[2] that's where I realized that this was not the right
[3] person. So he was handcuffed, unhandcuffed and that's
[4] when Sergeant Cosby arrived and—
[5] Q: When did you realize that this was probably not the
[6] right person; before or after he had been handcuffed?
[7] A: Directly after that. I mean, he was obviously — he was
[8] smaller than the person that we thought and he was 13
[9] years old and he was in his own backyard looking for his
[10] dog.
[11] Q: Did he struggle with you at all during that time that
[12] you were having him handcuffed?
[13] A: No.
[14] Q: What was the reason that you decided he should be
[15] handcuffed?
[16] A: We just handcuff everybody that, you know, people are
[17] fighting, for our own safety.
[18] Q: But I thought you indicated to me that he was not being
[19] combative with you.
[20] A: It's just a — it's a, I don't know, preventative
[21] measure so it doesn't happen, that's why.
[22] Q: Did you tell me exactly your physical contact that you
[23] had with him?
[24] He came out of the house on his own
[25] volition and then did you put him down on the ground

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[1] yourself?
[2] **A:** No, I don't remember putting him down on the ground at
[3] all.
[4] **Q:** Do you recall him ever being down on the ground?
[5] **A:** No.
[6] **Q:** But you do remember handcuffing him?
[7] **A:** Yes.
[8] **Q:** He was handcuffed from the back.
[9] **A:** Yes.
[10] **Q:** Do you ever recall seeing him subsequently on the ground
[11] while he was handcuffed?
[12] **A:** I don't remember.
[13] **Q:** After you handcuffed him what did you do?
[14] **A:** Started, you know, with the investigation, that the car
[15] was cold, the kid was 13, it was — obviously this was
[16] not who we were looking for.
[17] **Q:** Somebody checked the hood on the car?
[18] **A:** Yes.
[19] **Q:** What was Officer Wheatcroft doing during that time; if
[20] you recall?
[21] **A:** I don't remember.
[22] **Q:** Would it be fair to say that when you saw the Taurus in
[23] the driveway or what appeared to be a Taurus in the
[24] driveway neither you — well, you are not sure that this
[25] was the same car that actually pulled up at the Neome

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[1] Street address, correct?
[2] **A:** No. It was a similar make and model.
[3] **Q:** So it was more or less speculation that this might be
[4] the same car?
[5] **A:** Yes. I should say make, model, color.
[6] **Q:** Did you have your flashlight out at any time in your
[7] hand?
[8] **A:** The only flashlight I had that day was attached to my
[9] rifle and I didn't have any rifle with me.
[10] **Q:** Did you see anybody strike the 13-year-old with a
[11] flashlight?
[12] **A:** No.
[13] **Q:** You never entered the address on North Genesee yourself?
[14] **A:** No.
[15] **MR. GOLDSTEIN:** You're agreeing with the
[16] statement? It was a double negative.
[17] **THE WITNESS:** I did not enter the house,
[18] no.
[19] **BY MR. HUGHES:**
[20] **Q:** Did Officer Wheatcroft ever enter the house
[21] that you could see?
[22] **A:** No.
[23] **Q:** How long do you estimate that the 13-year-old was
[24] handcuffed?
[25] **A:** Maybe a minute or two at the most.

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[1] **Q:** A minute or two at the most?
[2] **A:** Yeah.
[3] **Q:** Was he still handcuffed at the time that Sergeant Cosby
[4] arrived; if you recall?
[5] **A:** I don't remember.
[6] **Q:** Do you recall how long it took Cosby to get over there?
[7] **A:** A minute or two.
[8] **Q:** After the 13-year-old was handcuffed, if I understand
[9] your testimony, he was just left standing?
[10] **A:** Yes.
[11] **Q:** Was he put anywhere while you were doing your
[12] investigation or was he just left standing in the yard?
[13] **A:** I just remember him standing inside of the porch.
[14] **Q:** Do you remember how long the female was handcuffed?
[15] **A:** She was handcuffed longer because she was still
[16] screaming and yelling and combative as far as — I
[17] shouldn't say — she was verbal, by combative. She was
[18] left handcuffed until Sergeant Cosby got there.
[19] **Q:** So we're still saying maybe a couple of minutes?
[20] **A:** Yes.
[21] **Q:** She was handcuffed longer than the 13-year-old?
[22] **A:** Yes.
[23] **Q:** Did you have pepper spray with you that day?
[24] **A:** No.
[25] **Q:** Do you know if any pepper spray was used on either the

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[1] 13-year-old or the female?
[2] **A:** I didn't see anybody use pepper spray and I didn't smell
[3] pepper spray in the air.
[4] **Q:** Did you ever write a report relative to the incident
[5] that happened at North Genesee?
[6] **A:** No, I did not.
[7] **Q:** To the best of your knowledge was there ever an internal
[8] investigation as to what happened there?
[9] **A:** I was never privy to that, no.
[10] **Q:** Were you ever asked to give a written statement or
[11] anything of that nature?
[12] **A:** I don't — I guess I'll have to say I don't remember.
[13] **Q:** If you did give a written statement would there be a way
[14] for you to get that from the department and give that to
[15] Mr. Goldstein?
[16] **A:** I think you'd have to go through Captain Miller.
[17] **MR. GOLDSTEIN:** That is the gentleman in
[18] charge of internal affairs. Officers, generally
[19] speaking, don't have access to intern affairs files so
[20] the officer is not being uncooperative, he's being
[21] candid.
[22] But I would offer cooperation with
[23] you per our previous discussions.
[24] **BY MR. HUGHES:**
[25] **Q:** Let me talk a little bit about your